

4 conference in Docket Number UT-961632. This docket is in
5 the matter of petition of GTE Northwest, Incorporated,
6 for depreciation accounting changes.

7 The purpose of this hearing is to hear brief
8 oral argument on Commission staff's motion to compel
9 discovery. The motion was filed on May 23rd, 1997.
10 Other parties were given an opportunity to respond and
11 filed written responses on May 29th, 1997. Notice of
12 this hearing was served on all parties on May 27th,
13 1997.

14 Today is May 30th, 1997. The hearing is
15 taking place at Commission headquarters in Olympia. My
16 name is John Prusia, the administrative law judge
17 assigned to this proceeding.

18 The process that we will follow after we take
19 appearances, we will hear your arguments, and then we
20 will go off the record so the Commissioners can confer.
21 After that, we will go back on the record and either
22 announce the Commission's decision or advise you when you
23 may expect to receive the decision. We also may need to
24 discuss changes in due dates for the filing of testimony
25 or other changes in the schedule.

_00003

1 I'll begin by taking appearances at this
2 time. We'll begin with the Company, GTE Northwest.
3 Mr. Potter, please?

4 MR. POTTER: Richard Potter for GTE
5 Northwest, Incorporated, 1800 41st Street, Everett,
6 Washington, 98201.

7 JUDGE PRUSIA: For Commission staff,
8 Ms. Johnston?

9 MS. JOHNSTON: Sally G. Johnston, assistant
10 attorney general. My address is 1400 South Evergreen
11 Park Drive Southwest, Olympia, Washington, 98504.

12 JUDGE PRUSIA: I believe we have the
13 addresses. Unless someone has a new address, they don't
14 need to repeat their address. For public counsel,
15 Mr. Ffitch?

16 MR. FFITCH: Simon ffitch, assistant attorney
17 general for the Office of Public Counsel in Seattle,
18 Washington.

19 JUDGE PRUSIA: For TRACER, Mr. Butler?

20 MR. BUTLER: Arthur A. Butler for TRACER.

21 JUDGE PRUSIA: Let the record reflect that
22 GTE, public counsel, and TRACER are appearing by the
23 Commission's conference bridge telephone line.

24 I would ask the counsel whenever they speak
25 to please say, "This is Mr. Potter," or, "This is

_00004

1 Mr. ffitch," before you begin your remarks so the
2 reporter will know who is speaking.

3 The order of argument will be as follows:
4 First, the moving party, Commission staff; then the
5 respondent, GTE; then public counsel; then TRACER.

6 Commission staff and GTE will then have an
7 opportunity to respond to the arguments of other
8 parties. You should limit each opportunity for argument
9 to five minutes. You should know that the Commissioners

10 have read the motion and the written responses.

11 We'll begin with Commission staff, Ms.

12 Johnston?

13 MS. JOHNSTON: Thank you, your Honor. I
14 would just briefly like to address two points. First,
15 being the discovery rule itself; and second, relevancy.
16 Under the discovery rule, WAC 480-09-480, GTE is required
17 to provide to Staff a requested mortality analysis, WAC
18 480-09-480's plain language mandates that that be the
19 result.

20 GTE is attempting to rewrite the rule. The
21 rule isn't limited to requests for, quote unquote,
22 "extant documents," but makes specific reference to,
23 quote, "analysis of extant documents into a requested
24 format," end quote.

25 Significantly, on brief and in declaration,

_00005

1 GTE admits repeatedly that the requested data exists.
2 It's extant. In Paragraph 2, Sub G of the declaration of
3 GTE's witness Sovereign, Sovereign even admits to
4 reviewing the account data.

5 GTE claims the Staff should prepare the
6 analysis, all the while admitting the data exists for
7 which the analysis can be created. Not only is it not
8 practical, it's not efficient. From time immemorial,
9 regulating utilities have been supplying this precise type
10 of mortality data to Staff for its analysis. GTE's
11 position ignores the plain language of the discovery
12 rule.

13 Turning now to relevancy, the data request is
14 reasonably calculated to lead to the discovery of
15 admissible evidence. It's admissible because it's
16 relevant. It's highly relevant. If one looks at
17 Evidence Rule 401, relevant evidence is defined as
18 evidence having any tendency to make the existence of any
19 fact that is of consequence to the determination of the
20 action more probable or less probable than it would be
21 without the evidence. According to Tegland, minimal
22 logical relevancy is all that is required.

23 GTE itself admits that its petition in this
24 case represents the, quote unquote, "departure" from the
25 traditional depreciation filing. At a minimum, GTE

_00006

1 should be required to produce a mortality analysis, for
2 that reason if nothing else. Again, the minimal logical
3 relevancy is all that is required. Staff said that
4 satisfies that standard.

5 Finally, I'd like to address the offense of
6 prejudgment paragraph appearing in Sovereign's
7 declaration at Paragraph 12. While coy and clever, it
8 never has been nor will it ever be -- Staff will never
9 presume to speak for the Commission, as the Commission
10 well knows. Our point is not that the Commission has in
11 any way prejudged depreciation issues in this case. Our
12 point is that the mortality analysis is relevant to this
13 proceeding and should be provided.

14 Finally, the requested mortality data
15 exists. GTE has it in its possession. The discovery

16 rule mandates that GTE provide an analysis of the
17 mortality data into a requested format. It's clearly
18 relevant to this case. GTE has spent more time resisting
19 this motion than it would have taken to provide the
20 requested analysis. Our motion to compel should be
21 granted. That's all I have. Thank you.

22 JUDGE PRUSIA: Thank you, Ms. Johnston. Do
23 the Commissioners have any questions they wish to ask of
24 Ms. Johnston before we hear from GTE?

25 COMMISSIONER HEMSTAD: Ms. Johnston, this is
_00007

1 Commissioner Hemstad. First, precisely what is it that
2 you're asking GTE to provide?

3 MS. JOHNSTON: We're asking GTE to provide
4 mortality data concerning its plant accounts, and we
5 request this data because it will prove very useful to
6 the Commission in deciding the issues in this case.

7 I can give you an example: For example, if
8 copper cable life indications show that they are 40 years
9 -- this is the sort of mortality data we want, 40 years,
10 let's say -- and currently prescribed lives are 27 years,
11 there's a difference there between 40 years and 27 years,
12 and from Staff's perspective, one could say, "Why are the
13 currently prescribed lives far shorter than the
14 historical data indicates? " Well, we take into
15 consideration technological obsolescence, competition,
16 and the various issues that GTE is arguing that Staff is
17 not.

18 COMMISSIONER HEMSTAD: Now, I believe in

19 your brief you state that the information is already
20 available because it's required to be provided to the
21 FCC?

22 MS. JOHNSTON: Yes.

23 COMMISSIONER HEMSTAD: In the form that you
24 would want it?

25 MS. JOHNSTON: No. A mortality analysis is
_00008

1 not required by that federal law.

2 COMMISSIONER HEMSTAD: Then what is provided
3 to the FCC, and how is that different from what you would
4 want?

5 MS. JOHNSTON: Well, the raw data versus an
6 analysis. I guess that's basically it. The raw data is
7 provided to the FCC pursuant to that federal law, and
8 what Staff is interested in is an analysis of that raw
9 data showing like indications for the various categories
10 plant.

11 COMMISSIONER HEMSTAD: All right. Now, the
12 information that you are asking for, is that the method
13 that GTE has used to set depreciation in its last general
14 rating proceeding?

15 MS. JOHNSTON: Yes.

16 COMMISSIONER HEMSTAD: How many staff hours
17 do you expect performance of the requested analysis would
18 take?

19 MS. JOHNSTON: Commission staff hours?

20 COMMISSIONER HEMSTAD: GTE.

21 MS. JOHNSTON: It's my understanding it's

22 burdensome, as GTE would have you believe. For example,
23 I think in Paragraph 8, witness Sovereign indicates the
24 computer -- it says, Page 3 Paragraph 8, "For a GTE
25 mortality analysis, the first steps would be to prepare

_00009

1 the input data for mortality computer programs and then
2 run the programs, which alone would take about eight
3 hours."

4 Now, briefly, that's all Staff is interested
5 in. I suppose -- to avoid the situation where GTE would
6 provide that to us and then later claim that there were
7 data abnormalities in that. So I suppose the second step
8 we would like GTE to take would be to try to determine if
9 there are any data abnormalities.

10 COMMISSIONER HEMSTAD: Now, we will hear from
11 the Company, but how much effort would it be for the
12 Staff to do this work?

13 MS. JOHNSTON: It's my understanding it would
14 be extraordinarily difficult. We've never done it. We
15 don't have the computer software to do it, and GTE has
16 proven time and time again that it's capable of
17 generating this sort of requested data, and up until
18 1997, it has always done so.

19 So just in terms of efficiency and
20 practicality, it makes little sense for Staff to
21 undertake this effort, particularly given Staff's work
22 load.

23 COMMISSIONER HEMSTAD: GTE also argues that
24 mortalities used in previous studies have not changed

25 materially. Can that be verified?

_00010

1 MS. JOHNSTON: Apparently, Staff is not
2 capable of verifying that statement, and it's somewhat
3 dated in that four years of data would not be included in
4 these 19 -- the last depreciation study.

5 COMMISSIONER HEMSTAD: And the last
6 depreciation study was what date?

7 MS. JOHNSTON: 1994, and I believe that
8 didn't contain 1994 data. I think it runs up to 1992.
9 The company can correct me if I'm wrong.

10 COMMISSIONER HEMSTAD: So we're talking
11 about data approximately four years old?

12 MS. JOHNSTON: Yes.

13 COMMISSIONER HEMSTAD: Thank you. That's
14 all I have.

15 COMMISSIONER GILLIS: No additional
16 questions.

17 JUDGE PRUSIA: No additional questions.
18 Proceed with your argument Mr. Potter.

19 MR. POTTER: Mr. Sovereign was going to try
20 to call in. Mr. Sovereign are you on the line?
21 Apparently, he was not able to make it.

22 Briefly, on the relevance point, Staff seems
23 to indicate that it agrees with GTE that today,
24 depreciation lives should be forward-looking, and if that
25 is correct, then I submit that Staff has not demonstrated

_00011

1 the relevance of looking at past plant retirement

2 statistics.

3 As to the issue of whether the Commission's
4 rules do or should in fairness require GTE to perform the
5 work that Staff is requesting, as Mr. Sovereign's
6 declaration makes clear, this is more than a simple
7 reformatting of information.

8 The accounting data, you might call the raw
9 data, and it shows plant retirement, the analysis that
10 the company had understood the Staff was requesting is
11 more like a study, and it's quite significant, as
12 Mr. Sovereign described, and would take up to a week.

13 I'm fearing that Staff is saying that it does
14 not really want a full mortality analysis after all, but
15 still, the point is obvious that it's more than a trivial
16 reformatting and something that the Staff can do.

17 As Mr. Sovereign has stated, just a look at
18 the raw data from the plant retirements should
19 demonstrate that those have not changed significantly in
20 the prior study, and Staff should be able to verify that
21 by looking at the raw data on the plant retirement switch
22 the Company has provided.

23 But in any event, that's the Company's
24 statement, which you will be willing to live with in the
25 case that the retirements for the recent couple of years

_00012

1 are not materially different than the prior years. So if
2 it's a practical matter, if there is a relevant point
3 that Staff wants to make with this data, it can make that
4 point with the existing analysis.

5 But the Company's position is neither the
6 Commission's rules properly interpreted nor fairness in
7 this case support the Commission granting the Staff's
8 motion and compelling the Company from this new study.

9 COMMISSIONER HEMSTAD: Are you done?

10 MR. POTTER: Yes.

11 COMMISSIONER HEMSTAD: This is Commissioner
12 Hemsted again. I'm puzzled by your assertion that the
13 information is not relevant. Would you elaborate on that
14 a bit more?

15 MR. POTTER: Yes. The point in this case is
16 that due to the changes in the regulatory climate in the
17 industry, which Mr. Sovereign describes in his pretrial
18 testimony, plant retirements are no longer a valid
19 predictor of future depreciation lives.

20 COMMISSIONER HEMSTAD: But that's your
21 theory of the case. I take it, at least potentially, the
22 Staff has a different theory, looking at historical
23 mortality. Are you suggesting that Staff is precluded
24 from raising a different theory of the case? Isn't that
25 one of the issues to be decided?

_00013

1 MR. POTTER: Yes, and as I stated, we were
2 under the understanding that Staff agreed that the
3 depreciation lives should be forward-looking. If we're
4 mistaken in that regard, and they want to advocate
5 continued use of the historical approach, then that's
6 another story, of course.

7 COMMISSIONER HEMSTAD: Well, at least for

8 the purposes of this discussion, this is a discovery
9 environment. Is it your position that the Staff cannot
10 pursue a different approach?

11 MR. POTTER: No, not at all. If the Staff
12 wants to disagree with GTE's approach to the
13 forward-looking lives and argue that historic lives
14 should continue to be used, they're free to argue that.

15 COMMISSIONER HEMSTAD: But not free to ask
16 you for information that would explore that approach?

17 MR. POTTER: No. That's not what I meant to
18 say. To rephrase, if the Staff, indeed, agrees with us
19 that forward-looking lives are appropriate, then there
20 would be no relevant point served by putting in evidence
21 historic lives.

22 COMMISSIONER HEMSTAD: Let me ask you how
23 much staff time you see would be required to provide the
24 information Staff has requested?

25 MR. POTTER: To do the study that Staff has

_00014

1 requested in the same way it was done in prior
2 depreciation studies would, as Mr. Sovereign stated, take
3 an estimated minimum of 40 hours.

4 COMMISSIONER HEMSTAD: Are you suggesting
5 that the rule 480-09-480 and the language -- I'm quoting,
6 quote, "compilation or summary of extant documents into a
7 requested format," does not apply here?

8 MR. POTTER: When you see it in the light of
9 this actual dispute, the language is somewhat ambiguous.
10 That's why we went for a reference to the civil rules,

11 which make it pretty clear --

12 COMMISSIONER HEMSTAD: I don't think it's
13 ambiguous at all, at least with regard to this narrow
14 question. It surely is a matter of compilation or
15 summary of extant documents.

16 MR. POTTER: That's where we must differ with
17 the Staff's characterization. It's more than just taking
18 the raw plant retirement data and reformatting it. It's
19 very definitely a study approach, as Mr. Sovereign
20 described in his declaration.

21 COMMISSIONER HEMSTAD: But then going on,
22 you take the position that the last sentence, the
23 exception does not require you to provide it here?

24 MR. POTTER: The compelling need exception?

25 COMMISSIONER HEMSTAD: Yes.

_00015

1 MR. POTTER: We don't think there is a
2 compelling need for two reasons: First, the Staff could
3 make the analysis on its own. Whether it needs
4 particular software that's not available to the Staff,
5 I'm afraid I cannot address.

6 But more to the point, since GTE is willing
7 to state that the retirements in the last couple of years
8 are the same as the retirements in the previous years for
9 which studies are available, there is no point in doing
10 the new study.

11 JUDGE PRUSIA: Mr. Gillis, did you have any
12 questions?

13 COMMISSIONER GILLIS: No questions.

14 JUDGE PRUSIA: I'm going to ask you one,
15 Mr. Potter. You say that Staff could produce the
16 requested analysis as well as can GTE. If Staff did
17 produce an analysis with the information that you
18 provided them on the disk, would you consider Staff's
19 analysis to be equivalent to an analysis of the data
20 produced by GTE itself?

21 MR. POTTER: Well, I really can't answer that
22 in fairness without seeing the analysis first, and I'm
23 relying on what Mr. Sovereign has stated about the task
24 at issue.

25 JUDGE PRUSIA: He seems to indicate it's a
_00016
1 very complex process. That seems somewhat inconsistent.
2 You seem to say that Staff could easily produce it, and
3 yet, he says it's a very complex process, and I'm
4 wondering how you reconcile those two, what appear to be,
5 conflicting statements.

6 MR. POTTER: He also says that any analyst
7 trained and familiar with depreciation can do it in a
8 fairly straightforward fashion, and, of course, I'm not
9 such a person, so it does seem complex to me.

10 JUDGE PRUSIA: Thank you. I have no further
11 questions. Do the Commissioners have anything else?

12 COMMISSIONER HEMSTAD: Mr. Potter, are you
13 familiar with the content of WAC 480-09-330?

14 MR. POTTER: I can grab that if you'll wait
15 one moment. That's the one on filing requirements?

16 COMMISSIONER HEMSTAD: Yes. This is in

17 context to the request of rate increases.

18 MR. POTTER: It's just an accounting change
19 at the moment.

20 COMMISSIONER HEMSTAD: But this will be a
21 major component in dealing with anticipated or the
22 possibility of a future request for a rate increase.

23 MR. POTTER: That's true. But in my
24 experience, when one gets to an actual rate case, the
25 Commission always reserves the decision on whether to use
_00017

1 the book depreciation or not.

2 COMMISSIONER HEMSTAD: Would you look at
3 Paragraph 2B?

4 MR. POTTER: Yes. I see that.

5 COMMISSIONER HEMSTAD: I'm reading from that
6 where it says, "If the Company proposes a calculated
7 adjustment in the manner differing from the method that
8 the Commission most recently accepted or authorized for
9 the Company, which will also present a work paper
10 demonstration of how the adjustment would be calculated
11 out of the methodology previously accepted by the
12 Commission and a brief narrative describing the change."

13 Would you consider that applicable here?

14 MR. POTTER: No, I would not, since we are
15 not actually in a rate filing.

16 COMMISSIONER HEMSTAD: But then projecting
17 ahead to a time when there would be a rate filing and the
18 issue of depreciation was to be considered, then the
19 Company would have to do, under this rule, what it is

20 objecting to doing now.

21 MR. POTTER: Only if it were to involve an
22 actual or pro forma adjustment to the Company's results
23 of operation information, and depending on the timing,
24 that may or may not be the circumstances.

25 JUDGE PRUSIA: Do you have anything further?

_00018

1 COMMISSIONER GILLIS: No.

2 JUDGE PRUSIA: Thank you, Mr. Potter. Mr.
3 ffitch, does public counsel have any comments to put on
4 the record, anything you want to add to your written
5 comments?

6 MR. FFITCH: Thank you, your Honor. This is
7 Simon ffitch for the office of public counsel. I did
8 just want to emphasize the two points that we made in our
9 written comments. Actually, Commissioner Hemstad already
10 raised one of the points with Mr. Potter, but let me just
11 restate briefly our position, our two main concerns:

12 First of all, we are seriously concerned with
13 the position taken by GTE that anything inconsistent with
14 their particular new area of depreciation, the so-called
15 substitution theory, cannot be inquired into either by
16 the parties or by the Commission.

17 Of course, if the parties are precluded from
18 obtaining objective information and putting it in the
19 record later, the Commission itself is precluded from
20 looking at alternatives to the theory that is being put
21 forward by GTE.

22 The Commission is sort of being asked to

23 accept the premise that there is complete discontinuity
24 between the objective analysis and retirements that have
25 been obtained here and the kind of analysis that we're
_00019

1 going to adopt going forward into the future.

2 We're not certain as public counsel that
3 that's an accurate way to go, and I'm not sure Commission
4 wants to, in the context of a discovery motion, to adopt
5 that premise.

6 The second concern that we have is that the
7 theory itself that underlies this premise, the
8 substitution theory advocated by GTE in this case, has
9 actually been projected by -- as we know in our filing --
10 by the Commission in the US West depreciation proceeding
11 to which GTE was a party. Those are our two main points.

12 JUDGE PRUSIA: Do the Commissioners have any
13 questions for Mr. ffitch?

14 THE COMMISSIONERS: No.

15 JUDGE PRUSIA: Mr. Butler, does TRACER have
16 any comments that it wishes to add to the written
17 responses?

18 MR. BUTLER: Yes, your Honor, just a few.
19 First, I'd note that we're frankly puzzled by the
20 representation of Mr. Sovereign's declaration, Paragraph
21 2G in particular that the '95/'96 plant retirements are
22 not significantly different from those reported in the
23 '94 depreciation studies since responses to data
24 requests indicate -- with relationship to retirement
25 rates for the period '91, '92, and '93, which would have

_00020

1 been covered by the '94 study -- are significantly
2 different from those that appear to be applicable to '94,
3 '95, and '96.

4 My arithmetic indicates that the '94,'95,'96
5 average retirement rate is about .93, whereas the
6 retirement rate for the '91,'92,'93 period is 1.87.
7 That's a significant difference, and I would think that
8 on that basis alone, there is reason to question the
9 accuracy of the statements of Mr. Sovereign's
10 declaration.

11 Secondly, from what I understood Ms. Johnston
12 to say, the Staff does not have the computer programs
13 necessary to do the analysis which they are requesting of
14 GTE, so they simply cannot do it. In addition, the
15 information that has been produced so far does not
16 include, to my understanding, vintages of the retired
17 plan. That information would be necessary for the Staff
18 to have, even if it had the computer program to do the
19 analysis.

20 Therefore, it appears that GTE is the only
21 one in the position to provide the necessary information
22 and the analysis, and they are capable of doing it.
23 Clearly, we believe that the traditional mortality
24 analysis that's been requested is relevant, certainly to
25 the Staff's case, and it's relevant not only because it

_00021

1 can be useful if you believe that future retirements will
2 follow the patterns of recent retirements in predicting

3 service lives in the future, but it's also critical to
4 certain forms of depreciation, like group depreciation,
5 which I believe is applicable to GTE's ongoing work
6 basis, and it's relevant as a means to test the
7 reliability of the statements and projections of
8 Mr. Sovereign and Dr. Vance in this case. For these
9 reasons and for those stated by Mr. ffitch, we support
10 this past motion.

11 JUDGE PRUSIA: Thank you, Mr. Butler. Do the
12 Commissioners have any questions for Mr. Butler?

13 THE COMMISSIONERS: No.

14 JUDGE PRUSIA: Ms. Johnston, do you have any
15 responsive comments to add?

16 MS. JOHNSTON: No.

17 JUDGE PRUSIA: Mr. Potter, do you have any
18 responsive comments to add?

19 MR. POTTER: Just briefly, that it's not
20 appropriate for Mr. Butler to testify in the hearing
21 about his calculations on the retirement figures and that
22 it's Mr. Sovereign's group that provided the responses to
23 the data request, so I would object to his statements and
24 his declaration. That's all I have.

25 JUDGE PRUSIA: Thank you, Mr. Potter. Do the

_00022

1 Commissioners have any additional questions for counsel?

2 COMMISSIONER GILLIS: No.

3 JUDGE PRUSIA: We'll go off the record for
4 just a second while I confer with the Commissioners
5 concerning how much time they feel they need to discuss

6 the motion, so just hang on.

7 (Recess.)

8 JUDGE PRUSIA: We're back on the record. We
9 will stand in recess for 10 minutes, which would bring us
10 to a quarter to 12:00, and at that time, we will
11 reconvene and go back on the record and the Commissioners
12 will announce their decision, or I will announce their
13 decision, however we decide to do that. Very well, we're
14 off the record. Call back in ten minutes or hang on the
15 line.

16 (Recess.)

17 JUDGE PRUSIA: Is everyone on the line? This
18 is John Prusia.

19 JUDGE PRUSIA: Very well, let's be back on
20 the record. During the time we were off the record, the
21 Commissioners discussed the motion and have reached a
22 decision. They have asked me to announce the decision
23 into the record.

24 The Commission grants Commission staff's
25 motion to compel. The Company is ordered to comply with
_00023

1 the discovery request exactly as Staff has requested it
2 by noon next Friday, which would be the 6th of June.

3 The Commission feels that the request that
4 the information is not relevant, the Company is not
5 entitled to determine the theory of the case that Staff
6 may present. That is one of the issues that the
7 Commission is to decide in this proceeding.

8 The Commission concludes that the request

9 clearly falls within WAC 480-09-480, and clearly is
10 buttressed by WAC 480-09-330 as a critical issue in any
11 future rate increase requests.

12 The Commissioners asked me to inform the
13 parties that they fully expect the parties to meet the
14 spirit and effect of Commission discovery rules and not
15 make the Commission make this kind of decision when the
16 request clearly appears to be within the rules. Finally,
17 the Commission rejects any inference in Paragraph 12 of
18 Mr. Sovereign's affidavit that the issues in this
19 proceeding had already been decided.

20 Now, we need to discuss scheduling. The
21 analysis is to be provided by June the 6th, as I said. I
22 need to ask Commission staff if that will interfere with
23 the efficient production of their testimony, which I
24 believe is due on the 3rd?

25 MS. JOHNSTON: Yes, that's correct. And we

_00024

1 are prepared to file the testimony of Dr. Crew on the 3rd
2 in light of Commission's ruling on this motion to
3 compel.

4 I would propose that Mr. Spinks have an
5 opportunity to file testimony on June 16th, and then if
6 it's acceptable to GTE and the other parties, just keep
7 the rest of the hearing schedule as it is. GTE is
8 scheduled to prefile rebuttal testimony in exhibits on
9 June 23rd.

10 JUDGE PRUSIA: Then Mr. Crew's testimony
11 would not be affected by the study?

12 MS. JOHNSTON: That's correct.

13 JUDGE PRUSIA: So your request is that Staff
14 would prefile all its testimony except for Mr. Spinks on
15 the 3rd.

16 MS. JOHNSTON: That is correct.

17 JUDGE PRUSIA: Mr. Spinks would be filed on
18 --

19 MS. JOHNSTON: June 16th.

20 JUDGE PRUSIA: You did not propose any other
21 changes in the schedule?

22 MS. JOHNSTON: That's correct.

23 JUDGE PRUSIA: Mr. Potter, do you have any
24 comments on that?

25 MR. POTTER: Question: Is Mr. Spinks's

_00025

1 testimony intended to be confined to this new study that
2 the Company has been ordered to do, or will it encompass
3 other matters as well?

4 MS. JOHNSTON: Well, I think the testimony he
5 would file on the 16th would be limited to an analysis of
6 the mortality data that's provided, and in the event that
7 there are portions of Mr. Spinks's testimony that we had
8 planned on filing on June 16th, we could always file that
9 portion of his testimony along with the filing of Dr.
10 Crew's testimony on June 3rd, so I guess the answer to
11 your question would be yes.

12 MR. POTTER: That would be my request. That
13 anything Mr. Spinks can file on the 3rd that he go ahead
14 and file it, because with Staff's proposed schedule, he

15 would not have very much time to respond.

16 MS. JOHNSTON: I understand. That's fine.

17 MR. POTTER: And also, if I might just state,
18 we'll try to get ahold of Mr. Sovereign and get with his
19 staff right away, and if it's correct that the Staff does
20 not need the entire 40-hour analysis that Mr. Sovereign
21 thought they were asking for, that we'll work with Staff
22 to shorten up the time it takes us to get them the
23 information.

24 MS. JOHNSTON: That would be fine. We can
25 discuss that.

_00026

1 JUDGE PRUSIA: Very well then. That sounds
2 like that's acceptable to the parties. The only changes
3 to the --

4 MS. JOHNSTON: Excuse me, your Honor. I want
5 to make sure that I didn't misstate myself. I believe in
6 stating the Commission's ruling, you indicated the
7 Commissioners are ordering GTE to respond to WUTC Staff
8 Status Request No. 4 as it is written. Is that what you
9 said?

10 JUDGE PRUSIA: I believe their language was
11 -- I believe their intent was that the Company should
12 supply whatever you had requested but whatever you had
13 intended by your request.

14 MS. JOHNSTON: Okay.

15 JUDGE PRUSIA: It seems to me this morning
16 you had intended a certain thing by that request.

17 MS. JOHNSTON: Yes, and if there's any

18 confusion, perhaps Mr. Potter and Mr. Sovereign and Mr.
19 Spinks and I can discuss it.

20 MR. POTTER: During the argument, Ms.
21 Johnston made a couple of statements that led me to
22 believe that perhaps Staff was asking for something
23 slightly less than Mr. Sovereign thought they were asking
24 for.

25 JUDGE PRUSIA: Certainly, the Commission
_00027

1 wants the parties to resolve these discovery matters
2 between themselves, and we wouldn't want to hear back on
3 this same subject again, and clearly, the Commission
4 feels that what was requested in the original request is
5 relevant and is within the rule.

6 If Staff does not need the full thing that
7 they requested, then certainly we're not going to order
8 the Company to produce something Staff does not feel that
9 they need. But if Staff feels that they need something
10 beyond the first two stages of Mr. Sovereign's analysis,
11 the Commission would expect the Company to produce that.

12 MS. JOHNSTON: I just wanted to confirm the
13 scope of the Commissioner's ruling on our motion to
14 compel. Thank you.

15 MR. FFITCH: This is Simon ffitch for public
16 counsel. I just wanted to comment on the scheduling
17 issue. Mr. Potter and I are at separate locations so I
18 can't do hand signals or anything, so he may want to
19 speak on this as well.

20 As Commission is aware, we are jointly

21 sponsoring the witness. I think what we would like to do
22 is ask for the same scheduling adjustment that has been
23 made for Staff here, and specifically, that we would be
24 willing to file testimony by the 3rd, but that we would
25 have an opportunity to supplement our testimony based on
_00028

1 the new discovery that's produced by the 6th.

2 We have an outstanding data request that
3 requires GTE to provide us with information that's
4 provided to Staff so we would be receiving that
5 information on the 2nd also.

6 JUDGE PRUSIA: Do you have any comment,
7 Mr. Potter?

8 MR. POTTER: No, that's fine.

9 JUDGE PRUSIA: Ms. Johnston?

10 MS. JOHNSTON: No comment.

11 JUDGE PRUSIA: Is there anything further we
12 need to say concerning the schedule?

13 MS. JOHNSTON: I don't believe so.

14 JUDGE PRUSIA: Then the schedule will remain
15 as it presently is except that the testimony of
16 Mr. Spinks and the testimony of the witness for public
17 counsel and TRACER may be filed on the 16th of June.

18 If they have something they can file earlier
19 than that, they should do so.

20 MR. BUTLER: This is Art Butler. I think
21 what we will do on behalf of public counsel and TRACER,
22 we will file our testimony on June the 3rd, and then if
23 we deem it necessary after reviewing initial discovery to

24 change or supplement that testimony in any way, we will
25 file those changes, but we will be filing our testimony
_00029

1 on the 3rd.

2 JUDGE PRUSIA: Thank you for that
3 clarification, Mr. Butler. Is there anything else that
4 we need to address that we haven't touched on in today's
5 session? Let the record reflect that there's no
6 response. Let there be nothing further. I'll adjourn
7 today's hearing. Thank you for attending.

8 (Prehearing adjourned at 12:00 noon.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

